

## **FREDERICK COUNTY BOARD OF APPEALS MEETING MINUTES FOR MONDAY, May 2, 2011.**

John Clapp, Chair, called to order the regular meeting of the Frederick County Board of Appeals ("Board") for Monday, May 2, 2011 at 7:00 p.m. in the 1<sup>st</sup> Floor Hearing Room in Winchester Hall. Present were Al Duke, Sean Michalski, Carole Jaar Sepe and Brad Dyjak. Also present were Kathy Mitchell, Assistant County Attorney, and Community Development Division staff Larry Smith, Zoning Administrator, and Rick Brace, Principal Planner, and Erica Cooke, Recording Secretary.

*Official Minutes of the Board of Appeals' meetings are kept on file in the Community Development Division.*

### **Case**

#### **B-11-02                      Liberty Towers, LLC c/o McEvoy & Dean**

An application was filed requesting a special exception to establish a 195 ft. Communications tower/monopole with a 4 ft. lighting rod and 100 ft. x 100 ft. leased area with a 70 ft. by 80 ft. fenced in equipment compound, located on the west side of Harley Road, .4 miles north of Sumantown Road (Tax Map 74, Parcel 240), Zoned Agricultural.

The Board heard the case along with public comment on April 28, 2011 and closed the record. The hearing resumed from the April 28, 2011 hearing at the part of the proceedings where the Board discusses the case and renders a decision.

Mr. Michalski made a motion to deny the application on the basis that the Applicant failed to meet the criteria set forth in Section 1-19-3.200.1(C)1 for failing to show the distance from the property lines on the submitted application, Section 1-19-3.200.1(C)3 for failing to show elevations on the shelter drawings, Section 8.420.2(N) for failing to submit sufficient evidence to carry their burden of proof regarding what technical data or aesthetic reasons indicate there is no other preferable location on the property, and Section 8.420.2(O) for failing to submit evidence in accordance with the burden of proof with regards to how the applicant has addressed the visual impact on rural legacy areas and agricultural preservation areas, seconded by Ms. Sepe. (Yeas 2, Nays 3 – Clapp, Duke, Dyjak)

Mr. Michalski made a motion to grant the request on the basis that the Applicant met the criteria set forth in Sections 1-19-3.210, 1-19-8.332, and 1-19-8.420.2. The motion failed for lack of a second.

Mr. Clapp made a motion to grant the request, finding that the general criteria set forth in Section 1-19-3.210 had been met, noting there is no issue with parking, and specific criteria had been met in Section 1-19-8.332, adding conditions that the location of the compound be moved in accordance with the Applicant's amended supplemental exhibit which showed that the site would be moved further back onto the property, that screening and landscaping be placed around the fenced areas of the compound in a sufficient manner to screen the compound from view on all four sides, and that the applicant provide contact information on a sign at the location and also to County staff, and that it be updated annually, seconded by Mr. Duke.

Mr. Duke requested to amend the motion adding that that the contact information shall apply to the tenants on the tower as well. Mr. Clapp agreed to amend his motion.

The Board approved the application. (Yeas 3, Nays 2 – Sepe, Michalski)

### **Announcement**

Mr. Michalski announced his resignation from the Board effective as of the conclusion of the meeting.

The Board commended Mr. Michalski for his service on the Board of Appeals.

Being no further business, the meeting adjourned at 8:15 p.m.

Respectfully submitted  
Erica Cooke  
Recording Secretary

/s/  
John R. Clapp, Chair